APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/518,823	09/14/2005	Phil Kongtcheu		9878

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EXAMINER
CHANDLER, SARA M

ART UNIT	PAPER NUMBER
3693	

NOTIFICATION DATE	DELIVERY MODE
03/10/2010	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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	Application No.	Applicant(s)
	10/518,823	KONGTCHEU, PHIL
Office Action Summary	Examiner	Art Unit
	SARA CHANDLER	3693

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on <u>27 November 2009</u>.
2a) ☐ This action is **FINAL**.   2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) <u>178</u> is/are pending in the application.
    4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) <u>178</u> is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
    a) ☐ All   b) ☐ Some * c) ☐ None of:
      1. ☐ Certified copies of the priority documents have been received.
      2. ☐ Certified copies of the priority documents have been received in Application No. _____.
      3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date <u>12/17/04</u>.
4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____ .

DETAILED ACTION

Response to Amendment

Applicant's election with traverse of Claim 178 in the reply filed on 10/26/09 is

acknowledged. The traversal is on the ground(s) that the claimed inventions are not

patentably distinct. This is not found persuasive because

Groups 1 - 13 lack unity of invention a priori because there are no technical

feature(s) that are common to all of the claims.

The inventions listed as Groups 1 and 2; 1 and 3; 1 and 4; 1 and 5; 1 and 6; 1

and 7; 1 and 8; 1 and 9; 1 and 10; 1 and 11; 1 and 12; and 1 and 13:

Group 1 comprises technical features such as "identifying agreement terms of

said BIC/derivatives contract....." and "validating said BIC/derivatives contract." None of

the technical features are common to or shared with the technical features found in

Groups 3 – 13.

The inventions listed as Groups 2 and 3; 2 and 4; 2 and 5; 2 and 6; 2 and 7; 2

and 8; 2 and 9; 2 and 10; 2 and 11; 2 and 12; and 2 and 13:

Group 2 comprises technical features such as "a. receiving said payout payment

function expressed in DCWBSOF format....." and "b. transforming said payout payment

function expressed in said DCWBSOF format into DCWOF format....." None of the

technical features are common to or shared with the technical features found in Groups

3 – 13.

The inventions listed as Groups 3 and 4; 3 and 5; 3 and 6; 3 and 7; 3 and 8; 3 and 9; 3 and 10; 3 and 8; 3 and 9; 3 and 10; 3 and 11; 3 and 12; and 3 and 13:

Group 3 comprises technical features such as "a. receiving a BIC-basis; b. receiving the payout payment function for said derivatives contract; c. receiving prices for elements of said BIC-basis; and, d. performing an iterative process to return said ultimate portfolio of replicating BICs." None of the technical features are common to or shared with the technical features found in Groups 4 – 13.

The inventions listed as Groups 4 and 5; 4 and 6; 4 and 7; 4 and 8; 4 and 9; 4 and 10; 4 and 11; 4 and 12; and 4 and 13:

Group 4 comprises technical features such as "a. identifying any subsequent BIC-basis having elements with premium payment amounts derived from the premium payment amounts of said original BIC-basis of one or more related BICs ; and, b. providing the premium payment amounts of each element of said subsequent BIC-basis using a functional formula." None of the technical features are common to or shared with the technical features found in Groups 5 – 13.

The inventions listed as Groups 5 and 6; 5 and 7; 5 and 8; 5 and 9; 5 and 10; 5 and 11; 5 and 12; and 5 and 13:

Group 5 comprises technical features such as "a. enabling a stakeholder to provide a description of said derivatives contract in a functional format; b. enabling said stakeholder to provide a price for one or more basis instruments ; and, c. providing a

price for said derivatives contract responsive to steps a and b." None of the technical features are common to or shared with the technical features found in Groups 6 – 13.

The inventions listed as Groups 6 and 7; 6 and 8; 6 and 9; 6 and 10; 6 and 11; 6 and 12; and 6 and 13:

Group 6 comprises technical features such as a. creating a credit risk underlying whose value at any given time is equal to the percentage of the liability said counterparty honors at said given time....."and " b. multiplying the value of the liability said of counterparty at said given time by said credit risk underlying to obtain a result known as the value of the credit risk adjusted liability at said given time." None of the technical features are common to or shared with the technical features found in Groups 7 – 13.

The inventions listed as Groups 7 and 8: 7 and 9; 7 and 10; 7 and 11; 7 and 12; and 7 and 13:

Group 7 comprises technical features such as "calculating the credit risk limit of a given counterparty by setting a maximum responsive to the difference between the value of the counterparty liability not inclusive of credit risk and the value of said liability inclusive of credit risk." None of the technical features are common to or shared with the technical features found in Groups 8 – 13.

The inventions listed as Groups 8 and 9; 8 and 10; 8 and 11; 8 and 12; and 8 and 13:

Group 8 comprises technical features such as "a. determining a first payment amount by Said stakeholder, where said first payment amount is viewed from the position of said stakeholders counterparty, when said counterparty is anticipating a default by said stakeholder; b. determining a second payment amount by said stakeholder, where said second payment amount is viewed from the position of said stakeholders counterparty when said counterparty is not contemplating a default by said stakeholder; and, c. calculating said margin responsive to said first payment amount and said second payment amount. " None of the technical features are common to or shared with the technical features found in groups 9-13.

The inventions listed as Groups 9 and 10; 9 and 11; 9 and 12; and 9 and 13:

Group 9 comprises technical features such as "inputting a scaling density function relating the dependence of the first unit notional premium amount of said BICs to the premium amount for any other notional amount of said BICs.." None of the technical features are common to or shared with the technical features found in groups 10-13.

The inventions listed as Groups 10 and 11; 10 and 12; and 10 and 13:

Group 10 comprises technical features such as, "automatically quoting BICs prices in a trading or exchange system comprising inputting functions representative of BICs prices responsive to offer and demand." None of the technical features are common to or shared with the technical features found in groups 11-13.

The inventions listed as Groups 11 and 12; and 11 and 13:

Group 11 comprises technical features such as "establishing a network to facilitate interaction between stakeholders under the supervision of a trading system management authority." None of the technical features are None of the technical features are common to or shared with the technical features found in groups 12-13.

The inventions listed as Groups 12 and 13:

Group 12 comprises technical features such as "re-allocating inventory responsive to assessing the risk on said portfolio. " None of the technical features are None of the technical features are common to or shared with the technical features found in groups 12-13.

The requirement is still deemed proper and is therefore made FINAL.

Abstract

Applicant is reminded of the proper content of an abstract of the disclosure.

A patent abstract is a concise statement of the technical disclosure of the patent and should include that which is new in the art to which the invention pertains. If the patent is of a basic nature, the entire technical disclosure may be new in the art, and the abstract should be directed to the entire disclosure. If the patent is in the nature of an improvement in an old apparatus, process, product, or composition, the abstract should include the technical disclosure of the improvement. In certain patents, particularly those for compounds and compositions, wherein the process for making and/or the use thereof are not obvious, the abstract should set forth a process for making and/or use thereof. If the new technical disclosure involves modifications or alternatives, the abstract should mention by way of example the preferred modification or alternative.

The abstract should not refer to purported merits or speculative applications of the invention and should not compare the invention with the prior art.

Where applicable, the abstract should include the following:
(1) if a machine or apparatus, its organization and operation;
(2) if an article, its method of making;
(3) if a chemical compound, its identity and use;
(4) if a mixture, its ingredients;

(5) if a process, the steps.

Extensive mechanical and design details of apparatus should not be given.

The abstract of the disclosure does not commence on a separate sheet in

accordance with 37 CFR 1.52(b)(4). A new abstract of the disclosure is required and

must be presented on a separate sheet, apart from any other text.

Information Disclosure Statement

The information disclosure statement filed 12/17/04 fails to comply with 37 CFR

1.98(a)(2), which requires a legible copy of each cited foreign patent document; each

non-patent literature publication or that portion which caused it to be listed; and all other

information or that portion which caused it to be listed. It has been placed in the

application file, but the information referred to therein has not been considered.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claim 178 is rejected under 35 U.S.C. 101 because the claimed invention is

directed to non-statutory subject matter.

Re Claim: Not a proper method (i.e., process) claim.

In order for a method to be considered a "process" under 101, a claimed process

must either: (1) be tied to another statutory class (such as a particular apparatus) or (2)

transform underlying subject matter (such as an article or materials). *Diamond v. Diehr*,

450 U.S. 175, 184 (1981); *Parker v. Flook*, 437 U.S. 584, 588 n.9 (1978); *Gottschalk v.*

Benson, 409 U.S. 63, 70 (1972); *In re Bilski*, 88 USPQ2d 1385, 1391 and 1396 (2008).

Although the preamble of the claim recites that it is a "A system for ......", the invention claimed is not a "system" in terms of a machine (i.e., a combination of hardware, software, communication devices etc.) but, instead refers to a "system" in terms of a methodology or procedure for carrying out a series of steps . Note, for example, the body of the claim does not recite the structural components typical of a system/apparatus claim. Note, for example, the body of the claim recites process steps that may be performed by a human operator alone.

Re Claim 178: Mixing statutory classes.

The preamble recites, "A system for ....." however, the body of the claim recites the steps or acts performed which is typical of a method/process claim. The body of the claim does not describe the structural components typical of a system/apparatus and what those structural components are "configured to" do for example.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 178 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 178 is rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential elements, omitting essential steps and/or omitting essential structural cooperative relationships of elements such omission amounting to a gap between the elements, the steps and/or the necessary structural connections. See

MPEP § 2172.01. The omitted elements, omitted steps and/or omitted structural

cooperative relationships are:

Re claim 178: The purpose recited in the preamble of the claim, "A system for

mediating trading in gigs derivatives comprising:" is not accomplished by the invention

recited in the body of the claim.

Re Claim 178: The claim fails to positively recite what is done and use intended

use/result language which raise a question regarding the limiting effect of the language

in the claim. See bolded, italicized language (e.g., "b. establishing a network *to*

facilitate interaction between stakeholders under the supervision of a trading system

management authority;", "c. causing said network *to* communicate with said

stakeholders *to enable* a determination of trading prices for BICs trades;" and "e.

decomposing said relevant derivatives contracts *to* create a portfolio of BICs;".).

Re Claim 178: As noted supra, applicant is claiming a system claim but, fails to

positively recite the structural components of the system and what they are configured

to do.

Re Claim 178: Applicant is using acronyms (e.g., BICs-basis, BICs) in the claim

without first clarifying what the term is supposed to be (e.g., basis instrument contracts).

Re Claim 178: The phrase "relevant derivative contracts" uses a relative term

which renders the claim indefinite. The term "relevant" is not defined by the claim, the

specification does not provide a standard for ascertaining the requisite degree, and one

of ordinary skill in the art would not be reasonably apprised of the scope of the

invention.

Re Claim 178: The relationship between the steps or acts performed has not been established. The claimed invention is essentially reciting 3 distinct groups of actions that have no relationship to the others

(i.e., 1) "a. establishing a BICs-basis;" What the BICs-basis is and how it relates to any of the other steps or acts recited in the claimed invention has not been established.

2) "b. establishing a network to facilitate interaction between stakeholders under the supervision of a trading system management authority; c. causing said network to communicate with said stakeholders to enable a determination of trading prices for BICs trades;" These limitations pertain to interaction with the stakeholders but, how these steps have any relationship to the BIC-basis established or the decomposition of derivatives contracts is unclear.

3) "d. identifying relevant derivatives contracts; e. decomposing said relevant derivatives contracts to create a portfolio of BICs; and, f. finalizing a transaction in said portfolio of BICs." These limitations pertain to the decomposition of derivatives contracts but, how these steps have any relationship to the BIC-basis established or the interaction with the stakeholders is unclear.

Remarks

To advance prosecution applicant may wish to consider the following remarks and contact the examiner to schedule an interview prior to submitting the next response.

1. <u>Suggested Claim Language</u> - The following claims were drafted by the

examiner and are presented to applicant for consideration. Please be prepared to

discuss how these claims may be consistent/inconsistent with the invention applicant is

attempting to claim. Please be prepared to discuss where support may be found in

applicant's specification. Some limitations that have been modified include relevant

pgs. from applicant's specification as filed 12/17/04.

A. A method for pricing a derivative contract comprising:

receiving, via an input device, from one or more users at least one price for each of one

or more basis instrument contracts (BICs); (See pg. 5)

receiving, via the input device, a request from a user for a price of a derivative contract;

(See pg. 4)

determining, by a computer processor linked to the input device, a price that is the most

competitive price for each of said one or more basis instrument contracts (BICs); (See

pg. 5)

decomposing, by the computer processor, the derivative contract;

creating, by the computer processor, a portfolio comprising one or more of said basis

instrument contracts (BICs) based on the decomposition;

yielding, by the computer processor, the price of the derivative contract based on the

most competitive price for each of the one or more of the basis instrument contracts

(BICs) that comprise the portfolio; (See Fig. 4, pg. 4)

and transmitting, via an output device linked to the processor, the price of the derivative

contract to the user that requested the price of the derivative contract.

B. A system for pricing a derivative contract comprising:

an input device configured to:

receive from one or more users at least one price for each of one or more basis

instrument contracts (BICs); (See pg. 5)

receive a request from a user for a price of a derivative contract; (See pg. 4)

a computer processor linked to the input device configured to:

determine a price that is the most competitive price for each of said one or more

basis instrument contracts (BICs); (See pg. 5)

decompose the derivative contract;

create a portfolio comprising one or more of said basis instrument contracts

(BICs) based on the decomposition;

yield the price of the derivative contract based on the most competitive price for

each of the one or more of the basis instrument contracts (BICs) that comprise

the portfolio; (See Fig. 4, pg. 4)

and an output device linked to the computer processor configured to:

transmit the price of the derivative contract to the user that requested the price of

the derivative contract.

2. <u>Proper system/method claims etc.</u> Please see remarks supra regarding the

proper way to claim an invention for a particular statutory class; the connection between

the limitations in the claim; and making the preamble correspond to the invention

claimed.

3. <u>Lack of Unity</u>

Please refer to applicant's specification as filed 12/17/04. Examiner suggests

that a more effective way to advance prosecution is to pursue one or more of the

distinct inventive concepts recited (e.g.., See pg. 3) in separate applications (e.g., child

cases).

Please note that the method/system claims proposed and a corresponding

computer readable medium claim if proposed and supported by applicant's specification

are not considered patentably distinct from one another. The proposed claims address

improvements 1. The decomposition of derivative contracts and 2 The pricing of

derivative contracts on pg. 3 of applicant's specification.

4. Contact Information

Applicant should ensure contact information of record is current. Attempts to

reach the applicant have been unsuccessful.

Pro se Applicant

An examination of this application reveals that applicant is unfamiliar with patent

prosecution procedure. While an inventor may prosecute the application, lack of skill in

this field usually acts as a liability in affording the maximum protection for the invention

disclosed. Applicant is advised to secure the services of a registered patent attorney or

agent to prosecute the application, since the value of a patent is largely dependent upon

skilled preparation and prosecution. The Office cannot aid in selecting an attorney or

agent.

A listing of registered patent attorneys and agents is available on the USPTO

Internet web site http://www.uspto.gov in the Site Index under "Attorney and Agent

Roster." Applicants may also obtain a list of registered patent attorneys and agents

located in their area by writing to the Mail Stop OED, Director of the U. S. Patent and

Trademark Office, PO Box 1450, Alexandria, VA 22313-1450

Conclusion

The prior art made of record and not relied upon is considered pertinent to

applicant's disclosure.

("20010032168"|"20030115128"|"20030154153"|"20030177077"|"6421653"|"661

8707").PN.

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to SARA CHANDLER whose telephone number is

(571)272-1186. The examiner can normally be reached on M-F, 8-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, James Kramer can be reached on (571)272-6783. The fax phone number

for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a

USPTO Customer Service Representative or access to the automated information

system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

SMC

/Jagdish N Patel/
Primary Examiner, AU 3693